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February 13, 2003

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BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TWB-204
Washington, D.C. 20554

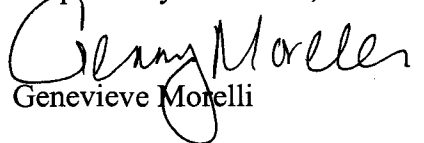
Re: Ex Parte Presentation in CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

Yesterday, Michael Ward and Martin Segal of Data Net Systems, LLC, and Joseph Gillan, representing the Promoting Active Competition Everywhere ("PACE") Coalition, met with Commissioner Abernathy's legal advisor Matthew Brill and Anna Mackowiak of Commissioner Abernathy's office to discuss the economic and operational impairments associated with serving small business and residential customers via competitively-provided circuit switches. They also discussed the role of state regulators in making unbundling determinations. The attached materials were distributed at the meeting.

In accordance with Section 1.1206 of the Commission's rules, this letter is being provided to you for inclusion in the public record of each of the above-referenced proceedings. A copy of this submission is being provided to each member of the Commission staff present at the meeting.

Respectfully submitted,


Genevieve Morelli

cc: Matthew Brill
Anna Mackowiak
Qualex International

History of Illinois Development of Local Competition

1. Illinois has been working on the development of local competition since authorized by state statute beginning 1989 (220 ILCS 5/13-405). Initial competitive efforts were focused on facilities-based competition (Chicago Fiber Optics/MFS, Teleport). In 1995 all Ameritech services were ordered to be made available for resale (#94-0096).
2. At Ameritech's urging, Ameritech's competitive services received access to the monopoly network facilities and services at prices based on forward-looking economic costs known as LRSIC or TSLRIC (ICC #89-0033 Remand), the foundation of TELRIC (FCC #96-98, 1st R & O, Par. ____).
3. To accommodate anticipated revenue losses in the incumbent's transition to local competition, IL statute and the ICC deregulated Ameritech's profits in 1994 (ICC #92-0448). This change enabled Ameritech to reach a new record level of profits in each successive quarter from 4Q94 through 4Q99, when it merged into SBC and ceased IL-specific announcements.
4. UNE-P was first adopted in Illinois (ICC #95-0458), per the 1992 IL statute that authorized Ameritech's alternative regulation. It took roughly 6 years and passage of a new state statute before Ameritech would comply with Commission orders.
5. In 2001, Illinois statutes explicitly codified UNE-P as part of package that deregulated SBC Ameritech's small business services and relieved Ameritech of a related refund proceeding at the ICC, saving Ameritech a net \$105 million.
6. By end of 3Q02, more than 100,000 small business lines and over 400,000 residential lines in Illinois obtained competitive local service via UNE-P.
7. The FCC cannot ignore the critical role that unbundling plays in the development of competition and state regulatory schemes ... the only reason that Ameritech enjoys the deregulatory freedoms that it has in Illinois is because of the competition it experiences via UNE-P.
8. The FCC must not preempt state laws that promote competition and deregulation such as the Illinois statute. By definition, such laws are consistent with the deregulatory objectives of the 1996 Telecom Act, even if the balance may be somewhat different than the 1996 Act (*i.e.*, in Illinois, UNE-P is mandated for carrier's electing alternative regulation, not discretionary).

9. States should also have flexibility to apply federal law under general rules established by the FCC that enables States to consider local market conditions, state law requirements, and the level of deregulation already provided the incumbent.

Finally, Illinois worked hard to pioneer UNE-P, the costs to implement UNE-P are now sunk, but consumers and small businesses are finally benefiting from all this hard work. It has taken Illinois an enormous amount of effort over 14 years to develop local competition. We have only had 1 year and a half on the UNE-P implementation and the early results for developing local competition are promising. Illinois should not be prevented from furthering its efforts to develop competitive telecommunications.